

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 09-55 (1) (RHK/SRN)

Plaintiff,

ORDER

v.

Antonio Derrick Smith,

Defendant.

Before the Court is Defendant's Section 2255 Motion seeking to "vacate both his conviction and sentence." On September 14, 2009, Defendant entered a plea of guilty to Count I of the Indictment charging him with conspiracy to distribute cocaine base in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B) and 846. He was subsequently sentenced to an imprisonment term of 120 months. There was no appeal of his conviction or sentence.

In support of the instant Motion, Defendant asserts three bases in support of his request to vacate his conviction: (1) ineffective assistance of counsel; (2) coercion by both the government and his own counsel resulting in his plea of guilty; and (3) the failure of this Court to be neutral.

A review of the transcripts of the September 14, 2009 change of plea hearing and the January 7, 2010, sentencing hearing refutes each of Defendant's claims. He clearly understood the charges in the Indictment, acknowledged his guilt and had no reservations about the competency of his attorney, and voiced no comments questioning the conduct

of the government attorney or the Court. In short, there is no basis for the relief requested and no need for an evidentiary hearing.

Accordingly, and upon all the files, records and proceedings herein, **IT IS ORDERED:**

1. Defendant's Motion to vacate both his conviction and sentence (Doc. No. 313) is **DENIED**; and
2. The Court declines to issue a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 20, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge